(1)

Supreme Court, U.S.
FILED

95-490 SEP 22 1995

No. _____

OFFICE OF THE CLERK

UNITED STATES SUPREME COURT
October Term, 1994

T. CARLTON RICHARDSON,

Petitioner

vs.

DISRICT OF COLUMBIA COURT OF APPEALS

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE DISTRICT OF COLUMBIA COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI AND APPENDIX

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QUESTIONS PRESENTED FOR REVIEW

(1) Whether D.C. Bar Rule XI, Section 11 violates the Due Process Clauses of the 5th and 14th Amendments to the U.S. Constitution where it permits the summary deprivation of petitioner's license to practice law without notice or opportunity to be heard?

(2) Whether D.C. Bar Rule XI, Section 11, violates the Equal Protection Clause of the 14th Amendment to the U.S. Constitution by allowing summary suspension under a circumstance which is not specifically provided for in the Bar Rule?

(3) Whether the judicial defendant can temporarily suspend the petitioner's license to practice law without following its enabling statutory requirements set out in D.C. Code Sec. 11-1503(b) to

commence a disciplinary proceedings against the petitioner, i.e. filing a verified complaint, personal service of the complaint upon the petitioner, and the seting of a hearing date, without violating the Due Process rights of the petitioner?

(4) Whether the reciprocal disciplinary procedures which deny the petitioner a hearing per se, but permits a hearing in the discretion of the judicial defendant and/or its administrative board (the D.C. Board on Professional Responsibility) violates the petitioner's Due Process rights or, since similarily situated alleged offenders are granted limited suspension and allowed a hearing, petitioner's Equal Protection rights?

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OPINIONS INVOLVED BELOW

Orders of the District of Columbia Court of Appeals in In re T. Carlton Richardson, No. 95-BG-639, dated June 27, 1995 (instituting reciprocal discipline proceedings and imposing temporary suspension of license to practice law) and September 13, 1995 (denying motion to vacate order of June 27, 1995), both reproduced in the appendix, are presented for review. Additionally, in related federal cases involving the same parties, an order and the oral ruling incorporated therein of the United States District Court for the District of Columbia, Judge Thomas F. Hogan, presiding, in T. Carlton Richardson v. District of Columbia Court of Appeals, No. CA 95-1272, dated July 28, 1995 (dismissing case), and an order of the United States Court of Appeals, in In

re T. Carlton Richardson, Petitioner, No. 95-5241, dated August 10, 1995 (denying writ of mandamus), are reproduced in the appendix.

JURISDICTIONAL STATEMENT

This Court review is sought for an orders of the District of Columbia Court of Appeals dated June 27, 1995 and September 13, 1995. Jurisdiction of this Court is based upon 11 U.S.C. 1257 (a) since the validity of a State's regulations and statutes governing the discipline of lawyers in the District of Columbia are challenged as violative of the Due Process or Equal Protection Clauses of the U. S. Constitution.

CONSTITUTIONAL, STATUTORY, OR REGULATORY PROVISIONS INVOLVED

Relevant portions of the following provisions of the 5th and 14th Amendments

of the U.S. Constitution, D.C. Code Secs. 11-2501(a) and 11-2503(b), and D.C. Bar Rule XI, Sec. 11 are setforth in the appendix at Exhibit "A".

STATEMENT OF CASE

1. Raising Federal Questions

Before the District of Columbia Court of Appeals ["DCCA" or "judicial respondent"] on two occasions, first by exception to recommendations of its Bar Counsel that automatic temporary suspension of petitioner's law license be imposed under D.C. Bar Rule XI, Sec. 11(d) and finally, on motion to vacate the order commencing reciprocal disciplinary proceedings and automatically suspending the law license of the petitioner. See, Exhibit "B"--Lower Court Decisions: Order, In re T. Carlton Richardson, Esq., No. 95-BG-639 (DCCA, June 27, 1995) [denial of exemptions]; Order, Id., (DCCA, September 13, 1995) [denial of motion to vacate summary suspension order], annexed. Without opinion, the judicial respondent

denied the relief requested in both instances, i.e. not to summarily suspend petitioner's law license without a presuspension hearing.

Before the U.S. District Court for the District of Columbia by verified complaint for declaratory and injunctive relief and by motions for temporary and preliminary injunctions. This relief was denied by the District Court judge citing lack of jurisdiction to review judgments of state courts and on grounds of abstention as to the constitutional challenges to the bar regulation governing reciprocal disciplinary matters. See, Exhibit "B"--Lower Court Decisions: Order, T. Carlton Richardson v. DCCA, C.A. No. 95-1272 (Hogan, J., D.C.D.C., July 28, 1995); Bench Opinion, Id., annexed.

Before the U.S. Court of Appeals for

the District of Columbia Circuit by writ of mandamus to compel the district court to exercise jurisdiction. This relief was denied on grounds that petitioner could appeal the district court ruling. See, Exhibit "B"--Lower Court Decisions: Order, In re T. Carlton Richardson, No. 95-5241 (D.C. Cir., August 10, 1995), annexed.

2. Factual Background

In June, 1992 petitioner, petitioned the Florida Supreme Court to resign. At the time of the resignation petition, petitioner was being investigated under an excessive fee complaint filed by petitioner's former clients. In August, 1992 the Supreme Court of Florida granted the uncontested petition to resign with a right for petitioner to reapply after three years. Upon entry of the resignation order, all pending

disciplinary proceedings against the petitioner by the Florida Bar were dismissed, the only one being the excessive fee investigation.

An investigation was commenced by the judicial respondent's Office of Bar Counsel in April, 1994 when it received a copy of the resignation order of petitioner from the Florida Bar. Petitioner responded to Bar Counsel's inquiry regarding the propriety of the excessive fee charges. Over a year later, by correspondence dated May 26, 1995, Bar Counsel notified the Clerk of the judicial respondent of its receipt of the resignation order and that under D.C. Bar Rule XI Sec. 11(d) ["Sec. 11(d)"] which provides for the automatic temporary suspension of "suspended and disbarred" attorneys upon commencement of reciprocal

disciplinary proceedings without a pre- or post-summary suspension hearing, the petitioner should be summarily suspended. See, Exhibit "A": D.C. Bar Rule XI, Sec. 11 (Reciprocal Discipline). Bar Counsel provided the petitioner with a courtesy copy of this correspondence and its attachments, which is not required by Sec. 11(d). Petitioner thereupon requested leave to file exceptions to Bar Counsel's recommendation for petitioner's summary suspension without providing a presuspension hearing. Bar Counsel responded. Both the exceptions and response were allowed to be filed with the judicial respondent. No evidentiary hearing was conducted on these submissions. (Petitioner has no right, in general, under the reciprocal disciplinary rule to a hearing unless recommended by

the D.C. Board on Professional Responsibility or the judicial respondent.)

On June 27, 1995, the judicial respondent entered an order commencing reciprocal discipline and simultaneously automatically suspending the petitioner from the practice of law until the completion of the reciprocal disciplinary proceedings. See, Exhibit "B": Lower Court Decisions: Order, In re Richardson, No. 95-BG-639 (DCCA, June 27, 1995). Under judicial respondent's disciplinary case law, temporary suspensions may be dissolved or vacated where the temporary suspension will exceed the suspension imposed in the foreign disciplinary order [See, In re Keilp, No. 91-207 (Order, D.C.C.A., June 5, 1991], however, in petitioner's case since the resignation

was indefinite, the temporary suspension would continue until the final disposition of the reciprocal disciplinary proceedings. During this time, petitioner is not entitled to a hearing on the continuation of petitioner's law license. Petitioner filed suit in federal court claiming that the summary suspension order, contained in June 27th, 1995 order commencing reciprocal discipline against the petitioner should be enjoined as being violative of the petitioner's due process and equal protection rights and that the underlying disciplinary regulations were unconstitutional as being void for vagueness [i.e. not prescribing summary suspension where an attorney resigns in lieu of discipline, see Zauderer v. Ofc. of Disciplinary Counsel, Sup. Ct. of Ohio, 471 U.S. 626, 666, 105 S.Ct. 2265, 2289

(1985)] and as a denial of due process since there is no provision for a pre/post hearing on the summary suspension. Also, the reciprocal disciplinary proceedings lacked provisions for a challenge to the constitutionality of disciplinary rules, nor does the the rules in general have such a provision for constitutional challenges, in fact, in reciprocal disciplinary cases, there is no right to a hearing at all unless the judicial respondent's Board on Professional Responsibility makes such a recommendation or the judicial respondent sua sponte or based upon the pleadings orders a de novo hearing.

Against this background, the district court judge held a temporary restraining order hearing in early July, 1995 and denied injunctive relief. On July 28, 1995

the district court conducted a consolidated preliminary injunction and motions hearing regarding judicial respondent's motion to dismiss and petitioner's motion for partial summary judgment and granted dismissal for lack of jurisdiction.

Thereafter, the petitioner sought the issuance of a writ of mandamus to the district court judge to compel exercise of its jurisdiction to the U.S. Court of Appeals, D.C. Circuit, which was denied. See order, Exhibit "B"--Lower Court Decisions, annexed. On August 30th, 1995 an appeal was timely noted to the district court dismissal order and is pending in T. Carlton Richardson vs. District of Columbia Court of Appeals, No. 95-7211 (D.C. Cir.)

This petition seeks a writ of

certiorari for review of the summary suspension of petitioner's law license without notice or a presuspension hearing and the institution of reciprocal disciplinary proceedings against the petitioner without adherence to the statutory procedures for commencing disciplinary proceedings that would result in the suspension of the respondent's license to practice law.

REASONS TO GRANT WRIT

This petition for writ of certiorari to review the action by the D.C. Court of Appeals in summarily depriving on a temporary basis the petitioner's license to practice law without notice or a presuspension hearing pursuant to a bar disciplinary regulation that does not expressly provide for summary temporary suspension in cases of voluntary resignation of another bar while disciplinary proceedings are pending. The judicial respondent, by statute, can legislate disciplinary rules, enforce disciplinary rules and interpret disciplinary rules. See, D.C. Code Sec. 11-2501 etc. By statute, the judicial respondent, in order to suspend a bar member must bring verified charges against the member, personally serve the member if

possible (or serve by mail or publication otherwise), and set the matter for hearing. D.C. Code Sec. 11-2503(b) Its bar disciplinary system does not have a procedure for challenging the constitutionality of its regulations or de facto procedures. In circumstances where a D.C. bar member is misappropriating client's funds or other substantial public harm, the disciplinary regulations permit modified summary suspension upon filing of a verified statement by is Board on Professional Responsibility, i.e. an attorney can continue practice as to existing cases at the time of suspension, but may not take new cases and is subject to supervision as to fees collected and case administration of existing cases pending a hearing of the summary deprivation. D.C. Bar Rule XI, Sec. 3(c). In

commencing reciprocal disciplinary proceedings against the petitioner based upon petitioner's resignation of the Florida Bar while disciplinary proceedings were pending there without a finding or admission of misconduct in Florida, the judicial respondent failed to follow its statutory procedure for suspending a member and used a disciplinary rule which expressly applied to suspend or disbarred attorneys by a foreign court and not to attorneys who resign while disciplinary proceedings are pending with or without a finding or admission of misconduct.

Reasons for the writ are as follows: (1) where one branch of government has legislative, judicial and executive functions, this Court should be suspect of its actions for there is no check and balance on the procedures. "The supremacy

of law demands that there shall be opportunity to have some court decide whether an erroneous rule of law was applied, and whether the proceedings in which facts were adjudicated was conducted regularly." St. Joseph Stock Yards Co. v. United States, 298 U.S. 38, 56 S.Ct. 720 (Justice Brandeis, concurring, 1936); (2) petitioner has no recourse except to this Court for the federal courts have refused to exercise jurisdiction, although it would exist, under the abstention doctrine of Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746 (1971) notwithstanding the fact that a prerequisite of the Younger doctrine is that a hearing be accorded the complainant in the state judicial forum and no such hearing was or will be accorded the petitioner on the summary suspension of petitioner's law license;

(3) This Court's decisions have held consistently that "(s)ome kind of hearing is required at some time before a State may finally deprive a person of a property interest". See, Parratt v. Taylor, 451 U.S. 527, 101 S.Ct. 1908 (1981). Except in an emergency situation, of which this is not, the hearing must occur before the deprivation. No such presuspension hearing was accorded the petitioner, although requested. (4) D.C. Bar Rule XI, Sec. 11 (d) permitting summary temporary suspension of an attorney's law license under the expressed circumstances of a suspension or disbarment by a foreign disciplining court was used to temporarily suspend the petitioner without notice or a presuspension hearing. In Zauderer [471 U.S. at 666, 105 S.Ct. at 2289] this Court stated regarding unconstitutionally

vague bar regulations, "..where the State has not otherwise proscribed the conduct in reasonably clear terms, the Due Process Clause forbids punishment of the attorney for that conduct." "The Fourteenth Amendment's Due Process Clause 'insist[s] that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.'" Grayned v. City of Rockford, 408 U.S. 104, 108-109, 92 S.Ct. 2294, 2298-2299 (1972) These guarantees fully apply to attorney disciplinary proceedings. In re Ruffalo, 390 U.S. 544, 550, 99 S.Ct. 122, 1225 (1968) Petitioner had no prior warning by either the expressed language of the bar disciplinary rule or by its interpretation by the judicial respondent that it considered resignation while under disciplinary

investigation, with or without a finding or admission of misconduct, as the "functional equivalent of a suspension" and therefore could apply the summary suspension regulation to the petitioner for petitioner's Florida Bar resignation. This cannot be done consistent with the Due Process Clause. (5) Judicial respondent's enabling statute, D.C. Code Sec. 11-2503(b), requires that where a member of the bar is sought to be suspended, written charges under oath must be filed with the judicial respondent, a hearing date set, and personal service, if possible, otherwise constructive service by mail or publication, prior to any suspension of a member. Reciprocal disciplinary cases are not excepted from the statute, nor is the incidence of temporary suspension. Such procedure was

not followed, therefore the petitioner's Due Process rights have been violated and the judicial respondent's order of June 27, 1995 initiating reciprocal discipline and summarily suspending the petitioner is void for a judgment rendered in violation of due process is void in the rendering State. World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 284, 291, 100 S.Ct. 559, 564 (1980); (6) Petitioner, summarily suspended for resigning while under disciplinary investigation elsewhere, is treated differently for no apparent reason from an attorney who is causing substantial harm, by, e.g. misappropriating client's funds. Under D.C. Bar Rule Sec. XI, Sec. 11, petitioner was automatically suspended temporarily without notice or hearing, but under D.C. Bar Rule Sec. 3(c) which governs emergency situations,

the proceeding must be commenced by filing a verified statement of charges, and temporary suspension applies to prospective cases and not existing cases of the alleged offender, and a hearing is mandated within 30 days. This disparate treatment violates petitioner's equal protection rights. (7) In reciprocal disciplinary cases, the D.C. bar rules do not provide a right to a hearing de novo, except upon the recommendation of the judicial respondent or its Board on Professional Responsibility. Judicial respondent's bar rules give conclusive effect to determinations made in foreign disciplinary proceedings without a hearing. While Full Faith and Credit can be accorded the judgments of another jurisdiction, provisions for testing the sufficiency of the evidence or

entertaining a constitutional challenge or other deficiency, must be provided. See, Middlesex County Ethics Committee v. Garden State Bar Ass'n, 457 U.S. 423, 102 S.Ct. 2515 (1982); See also, Selling v. Radford 243 U.S. 46, 37 S.Ct. 377 (1917) [Bar discipline may not be based upon matters resolved in judical proceedings if the procedure was so deficient as to constitute a deprivation of due process, there was an infirmity of proof, or a grave injustice would be committed.] There is no provision for challenge to the constitutionality of bar regulations within the disciplinary process of the judicial respondent. Under current D.C. Bar regulations, fee disputes between attorneys and clients requires mandatory arbitration. See, D.C. Bar Rule XIII (Mandatory arbitration where a substantial

portion of services rendered in D.C.) Between 1987, when petitioner closed petitioner's Florida office, and 1990 when the petitioner's former clients complained to the Florida Bar, substantial services were rendered from the District of Columbia to the former clients. Suspension under such circumstances is clearly unjust. Since petitioner admitted no misconduct upon resignation and the Florida Court made no such finding, there is no record upon which the judicial respondent can claim Full Faith and Credit or collateral estoppel since the Florida disciplinary proceedings were dismissed upon grant of the petitioner's petition for resignation which is discretionary with the Florida Supreme Court. See, Fla. Bar Rule 3-7.11 (Question before court is whether granting the petition would

adversely affect the public interest or confidence in the legal profession or the integrity of the court and its administration of justice. No finding of misconduct is made, although the nature of the charges are considered. Florida currently requires arbitration of attorney-client fee disputes.)

Conclusion

The foregoing state more than adequate reasons for this Court to issue the writ of certiorari and stay the disciplinary proceedings pending this Court's review. One of the paramount purposes of the Constitution was to protect a citizen's property rights and it is a priority that cases dealing with a deprivation or impairment of a propriety right should receive consideration by this Court. Irreparable damage has already

occurred and is continuing to occur to the petitioner each day petitioner is deprived of petitioner's license to practice without being accorded a pre-deprivation hearing. Petitioner respectfully requests that this Court issue a writ of certiorari to the District of Columbia Court of Appeals.

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UNITED STATES SUPREME COURT
October Term, 1994

T. CARLTON RICHARDSON,

Petitioner

vs.

DISTRICT OF COLUMBIA COURT OF APPEALS

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE
DISTRICT OF COLUMBIA COURT OF APPEALS

APPENDIX

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EXHIBIT "A"--CONSTITUTIONAL, STATUTORY AND REGULATORY PROVISIONS INVOLVED.

(1)

5th Amendment, U.S. Constitution

"[N]o person shall be ... deprived of

(2)

14th Amendment, U.S. Constitution

"... [N]or shall any State deprive any person of ... property, without due process of law;"

(3)

D.C. Code Sec. 11-2501(a)

"The District of Columbia Court of Appeals shall make such rules as it deems proper respecting .... membership in its bar, and their ... suspension..."

(4)

D.C. Code Sec. 11-2503(b)

"Except [upon conviction of a crime], a member of the bar may not be

written charges, under oath, against him have been presented to the court, stating distinctly the grounds of the complaint. The court may order the charges to be filed in the office of the clerk of the court and shall fix a time for hearing thereon. Thereupon a certified copy of the charges and order shall be served upon the member personally, or if it is established to the satisfaction of the court that personal service cannot be had, a certified copy of the charges and order shall be served upon him by mail, publication or otherwise as the court directs. After the filing of the written charges, the court may suspend the person charged from practice at its bar pending the hearing thereof."

(5)

D.C. Bar Rule XI, Sec. 11.
Reciprocal Discipline [Excerpted]

"***(c) **Standards for reciprocal discipline.** ....Unless there is a finding by the Board under (1), (2) or (5) [that the procedure elsewhere was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or there was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the D.C. Court of Appeals could not, consistent with its duty, accept as final the conclusion on that subject; or the misconduct elsewhere does not constitute misconduct in the District of Columbia] that is accepted by the Court, a final determination by a disciplining court outside the District of Columbia or by another court in the District of Columbia

that an attorney has been guilty of professional misconduct shall conclusively establish the misconduct for the purpose of a reciprocal disciplinary proceeding in this Court. [Insert provided.]

"(d) **Temporary Suspension and show cause order.** Upon receipt of a certified copy of an order demonstrating that an attorney subject to the disciplinary jurisdiction of this Court has been suspended or disbarred by a disciplining court outside the District of Columbia or by another court in the District of Columbia, the Court shall forthwith enter an order suspending the attorney from the practice of law in the District of Columbia pending final disposition of any reciprocal disciplinary proceeding, and directing the attorney to show cause within thirty days from the date of the

order why the identical discipline should not be imposed. The attorney's response to the order to show cause shall be filed with the Board [on Professional Responsibility], which for good cause shown may extend the time for filing a response for a period not to exceed thirty days. ***

"(f) **Action by the Court.** The Court shall impose the identical discipline unless the attorney demonstrates, or the Court finds on the face of the record one or more of the grounds set forth in subsection (b) of this section exists.***

"(g) **Action when reciprocal discipline is not recommended.** If the Board concludes that reciprocal discipline should not be imposed, it shall accept the facts found by the disciplining court unless it has made a finding under (1),

(2), or (5) of subsection (b) of this section. In the absence of such finding, the Board shall either:

***

"(2) refer the matter to a Hearing committee for its recommendation as to the appropriate discipline, or

***"

EXHIBIT "B"--LOWER COURT DECISIONS
(Captions Omitted)

(1)

In re T. Carlton Richardson, Esq., No. 95-BG-639 (DCCA, Ferren, King, & Mack, Judges, June 27, 1995):

"O R D E R

"On consideration of Bar Counsel submission to the Court of a certified coy of an order of the florida Supreme Court accepting the resignation of respondent in lieu of disciplinary proceedings, Bar Counsel's recommendation that the court issue a temporary suspension order pursuant to Rule XI, Sec 11(d) of the rules Governing the Bar of the District of Columbia, the lodged proposed order of suspension, respondent's motion for leave to file exceptions to the recommendation of Bar counsel for temporary suspension, respondent's lodged exceptions, Bar

Counsel's motion to enlarge time to file response, Bar Counsel's lodged response, it is

"ORDERED that respondent's motion for leave to file exceptions to the recommendation of Bar Counsel for temporary suspension is granted and the Clerk shall file the lodged exceptions. It is

"FURTHER ORDERED, that Bar Counsel's motion is granted and the Clerk shall file the lodged response. It is

"FURTHER ORDERED that Bar Counsel's recommendation that respondent be suspended from the practice of law in the District of Columbia pending final disposition of this proceeding is granted. It is

"FURTHER ORDERED that Bar Counsel inform the Board on Professional

Responsibility of his position regarding reciprocal discipline within 30 days of the date of this order. Thereafter, respondent shall show cause before the Board on Professional Responsibility, if cause there be, within 10 days why identical, greater or lesser discipline should not be imposed in the District of Columbia. It is

"FURTHER ORDERED that the Board of Professional Responsibility is directed to recommend promptly thereafter to this Court whether identical, greater or lesser discipline should be imposed as reciprocal discipline or wither the Board, instead, elects to proceed de novo pursuant to Rule XI, Sec. 11. It is

"FURTHER ORDERED that respondent's attention is drawn to the requirement of D.C. App. Rule XI, Sec. 14 relating to

suspended and disbarred attorneys and the provisions of Sec. 16(c) dealing with the timing of eligibility for reinstatement as related to compliance with Sec. 14, including the filing of the required affidavit. It is

"FURTHER ORDERED that the Clerk shall cause a copy of this order and the order of the Florida Supreme Court to be directed to the Chair of the Board on Professional Responsibility and transmitted to the respondent. It is

"FURTHER ORDERED that Bar Counsel advise the Court if the matter is concluded without the necessity of further Court action.

PER CURIAM"

(2)

In re T. Carlton Richardson, No. 95-BG-639 (DCCA, Ferren, King, and Mack, Judges,

September 13, 1995):

"O R D E R

"On consideration of respondent's motion to vacate reciprocal discipline/temporary suspension order or to extend time to file response, Bar Counsel's opposition thereto, and respondent's reply to Bar Counsel's opposition, it is

"ORDERED that respondent's motion to vacate this Court's order of June 27, 1995 is denied.

PER CURIAM"

(3)

T. Carlton Richardson v. District of Columbia Court of Appeals, C.A. No. 94-1272 (D.C.D.C., Hogan, J., July 28, 1995):

"ORDER

"For the reasons stated in the bench opinion issued at the hearing today, it is hereby ORDERED that the defendant's motion

to dismiss is GRANTED and this case is dismissed. This Court is without jurisdiction to consider the plaintiff's individual disciplinary status and will abstain from addressing the plaintiff's constitutional arguments. It is FURTHER ORDERED that the plaintiff's motion for preliminary injunction and motion for partial summary judgment are denied as moot. It is FURTHER ORDERED that the motion of Bar Counsel to quash certain subpoenae ad testificandum is also denied as moot.

July 28, 1995

/s/Thomas F. Hogan
Thomas F. Hogan
United States District Judge"

(4)

T. Carlton Richardson v. District of Columbia Court of Appeals, C.A. No. 94-1272 (D.C.D.C., Hogan, J., July 28, 1995):

BENCH OPINION BY JUDGE

"The Court is going to issue an oral ruling at this time, which will be its opinion in the case, and because of the nature of this ruling, it won't be necessary for the Court to continue to hear witnesses and take evidence in this matter.

"I appreciate Mr. Richardson's concerns, and he's eloquent as always, having been known to the Court previously, the concern he has as to the right of process and fairness in this judicial system as well as anywhere else in this country's system is important, and that's hopefully what we're all about here, and I appreciate his view on that.

"But I have before me the motion to dismiss, the motion for partial summary judgment by the plaintiff, and the motion

for preliminary injunction by the plaintiff.

"It's apparent to this Court to discuss a TRO basically that the District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, a 1983 case, indicating that the Supreme Court has held that this is a judicial type proceeding, not an administrative proceeding that Mr. Richardson is subject to and that the claim as to the proceedings in the D.C. Court of Appeals is really only appeal at the [U.S.] Supreme Court and not to this Court even if it's not a final order.

"It seems to the Court that Feldman teaches this Court that I do not have jurisdiction over the merits of the issues of his appeal because of the way the District of Columbia court has treated this resignation from Florida and that as

to the part of the case where he challenges the District of Columbia's Court of Appeals order in this case, it is not properly before this Court as to how they proceeded, properly or not, that that is beyond my jurisdiction under Feldman.

"The next issue, then as to the constitutionality of the D.C. rule, particularly as complained of by Mr. Richardson, as I indicated in comments with government counsel, that rule does potentially, it seems to the Court, present some concerns, and that the Court originally at the TRO had some concern as to the constitutionality issue barring dismissal under Feldman, and I believe Feldman does specifically provide that our courts could consider constitutional issues, and even though it involves a local state court's bar disciplinary

process.

"But beyond that, the defendants have now with a supplemental pleading made a Younger [vs. Harris, 401 U.S. 37, 91 S.Ct. 746 (1971)] abstention argument, stating that disciplinary proceedings are still pending in the state court and I should abstain from making any rulings, including constitutional ones that affect those state court proceedings, that I should recognize the District, in essence, a state court system, and that the opportunities for Mr. Richardson to bring his claim in the ongoing proceeding is there, that there's an important state interest in these proceedings, and that he has an adequate chance to continue to raise these, as he had in the part, constitutional and federal issues in those proceedings.

"Obviously, the disciplinary proceedings regarding the plaintiff's license to practice in the District are clearly judicial. They're clearly local. There's a strong local interest in there and local control of the bar by the highest court of the District of Columbia as opposed to the United States District Court.

"The District has represented, and I don't believe it's improper, that he has a right to file exemptions (sic: exceptions) to the recommendations for this interim suspension as it's pending before the D.C. Court of Appeals, an opportunity to be heard before the [B]oard [on Professional Responsibility] and before the D.C. Court of Appeals. He has and can continue to present challenges and briefs and oral arguments on the adequacy of the District

of Columbia process [and] on the constitutionality of these rules and can be heard whether or not there should be greater or lesser or no discipline asserted against him in D.C.

"I am concerned about Mr. Richardson's statements, one, on the irreparable injury, obviously, he suffers by being even temporarily suspended and, two, his concerns over the length of time it takes to have this matter adjudicated through the proper forum in the District of Columbia.

"While he may eventually show he's been wronged in the District but not suspend [sic: by suspending] him, and he gave his analogy -- it was a very challenging analogy of a Georgia issue -- I don't feel this Court has jurisdiction to right any such injuries as he's

suffering at this time, even if it moves at a slow pace and he's deprived of his license for a period of time. Again, that matter, it seems to me, can be presented to the District of Columbia courts as an emergency matter.

"I am cognizant of the Younger doctrine and believe it should be followed in our court and we should respect the courts of the District of Columbia adn their autonomy. and even in a case as this, as Mr. Richardson has said, where he is seeking only process adn to be treated fairly, it seems to me that that is a matter for the District of Columbia court to decide and not this Court.

"Recognizing that the Younger doctrine does contain, as he's argued, certain requirements that the process is fair, where [sic: there] in the state

court, it seems to me, that it is representing -- with the representations the defendants have provided to the Court as to how the process works and his opportunities to challenge the action even though he's temporarily suspended.

"I will also note, and the facts of this case indicated to the Court, that this arose here by a temporary restraining order request that I denied, and I expedited a hearing so that there could be an issue before this Court on the merits as soon as possible, and I consolidated the P.I. and the motions hearing today so that each side would have a chance to bring all the issues before the Court.

"My review of the case indicates, as I've indicated, that Mr. Richardson had resigned from the Florida bar two years -- three years ago now, I think, had been

practicing thereafter here. His resignation was after a third investigation had begun and he had been sanctioned earlier twice, apparently, but the D.C. bar had not suspended him permanently at any time from the practice of law, and he was entitled to the same practice here, as he has a right to.

"His determination now he [sic: is to] seeks [sic: seek] his due process and equal protection rights [that] are violated by this action in [the] D.C. proceeding[s] on his resignation. The District of Columbia says their rules treat it as a suspension and they have a right to go forward with notice to him they claim they gave to consider that. I believe they have a right to have that, obviously, under their own rules, to consider how they should treat Mr.

Richardson as long as it's done constitutionally.

"But based upon Feldman as to the principal merits of the case and based upon Younger doctrine, finding that their [sic: this] action can be as well processed in the Superior Court [sic: D.C. Court of Appeals] than in the Court of Appeals of D.C. [sic: U.S. District Court], the Court is going to dismiss this case, finding no jurisdiction under Feldman as to the propriety of the actions already taken by the District of Columbia and secondly, as to the constitutional claim, that can be protected by the plaintiff, and he can litigate that in the proper state forum. So, the case will be dismissed.

"That will moot the motion to quash by [D.C.] [B]ar [C]ounsel for certain

subpoenas and the motion for partial summary judgment by the plaintiff. I will issue an order to this effect in the event the plaintiff wants to take an appeal [of] this ruling."